

# EXHIBIT 10

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EPOCH EVERLASTING PLAY, LLC

and TARGET CORPORATION

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

WILLIENE JACKSON-JONES,  
individually and on behalf of all others  
situated, KAREN SANTOS, individually  
and on behalf of all others situated,

Plaintiffs,

vs.

EPOCH EVERLASTING PLAY, LLC, a  
Delaware limited liability company,  
TARGET CORPORATION, a Minnesota  
corporation, and AMAZON.COM  
SERVICES LLC, a Delaware corporation,

Defendants.

Case No.: 2:23-cv-02567-ODW-SK

**DEFENDANT EPOCH  
EVERLASTING PLAY, LLC'S  
OBJECTIONS AND RESPONSES TO  
PLAINTIFFS' REQUEST FOR  
PRODUCTION OF DOCUMENTS**

**DEFENDANT EPOCH EVERLASTING PLAY, LLC, RESPONSES**  
**TO PLAINTIFFS' REQUESTS FOR PRODUCTION OF**  
**DOCUMENTS**

Defendant Epoch Everlasting Play, LLC, by and through its undersigned counsel, submits the following objections and responses to Plaintiffs' Requests for Production of Documents.

**PRELIMINARY STATEMENT / GENERAL OBJECTION**

EEP has conducted a diligent investigation to date and undertaken a good-faith effort to respond to these Requests for Production and produce documents in a manner consistent with the Federal Rules of Civil Procedure. EEP's investigation of Plaintiffs' claims and for information responsive to these Requests for Production is ongoing. EEP therefore reserves the right to amend, supplement, correct, or clarify its responses and production, and to interpose additional objections if deemed necessary with subsequently discovered facts, witnesses, document, or things.

EEP's responses to any Request for Production are without prejudice to any objections that it has asserted and/or may later assert at any hearing or trial in this action or in any other action.

To the extent these Requests for Production seek information or documents that EEP deems confidential, EEP will provide such responsive information subject to, and only upon entry of, a protective order governing the production of confidential information relevant to the claims brought by Plaintiffs in this action. None of EEP's responses shall constitute an agreement to waive any protections provided by that protective order. EEP objects to any request for confidential or proprietary information to the extent that disclosing such information cannot occur until the parties reach a joint protective order and the Court enters such a joint protective order.

1 Finally, EEP objects to each Request for Production to the extent it seeks  
2 information protected by the attorney-client privilege, the work product doctrine,  
3 and/or other privileges, immunities, or legal protections against disclosure. Nothing  
4 contained herein is intended to be, nor shall in any way be construed as, waiving any  
5 attorney-client privilege, work product doctrine, right to privacy, or any other  
6 applicable privileges, immunities, or legal protections against disclosure.

7 **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

8 1. EEP objects to the Definition of “Class Period” as “January 1, 2017  
9 through the present.” This date is beyond the applicable statute of limitations period  
10 and is arbitrary. EEP will provide information applicable to the period of time  
11 relevant to the allegations of this action. Specifically, EEP will provide information  
12 applicable to the time period Plaintiffs have selected to define the putative class:  
13 January 30, 2019 to present. Herein, wherever Plaintiffs’ Requests for Production  
14 request information within the “Class Period,” any EEP response will be confined to  
15 the putative class time period of January 30, 2019 to present.

16 2. EEP objects to the Definition of “Communication” and “Document” to  
17 the extent they require EEP to provide information from sources that are not  
18 reasonably accessible because of undue burden or cost, as set forth in Rule  
19 26(b)(2)(B) of the Federal Rules of Civil Procedure. EEP further objects to these  
20 definitions to the extent they require EEP to gather, review, and produce certain kinds  
21 of information, such as text messages, voicemail, and instant messages, that cannot be  
22 collected and reviewed without incurring substantial cost and burden, as overly  
23 broad, unduly burdensome, and seeking documents that are irrelevant and not  
24 proportional to the needs of the case. Moreover, EEP also objects to the Definition of  
25 “Document” to the extent it purports to include non-final copies of documents, such  
26 as “preliminary versions, drafts, or other revisions,” as such documents that were  
27 neither used nor implemented can have no conceivable relevance to Plaintiffs’ claims.

3. EEP objects to the Definition of “Calico Critters” and “Products” as vague, ambiguous, overly broad, and unduly burdensome. Plaintiffs fail to refer with any degree of certainty to which products “are at issue in this Action.” EEP will treat “Calico Critters” and “Products” as referring to those Calico Critters branded products that contain a flopped figure.

4. EEP objects to the Definition of “Plaintiffs” on the grounds that it inaccurately identifies “Priscilla Herrera” as a plaintiff and fails to identify all plaintiffs to this action. EEP will construe “Plaintiffs” to include only the named Plaintiffs in this action.

5. EEP objects to the Definition of “You” and “Your” on the grounds that it seeks information not in EEP’s possession or requires EEP to produce information and materials that are in the possession of entities or individuals other than EEP—including EEP’s parents, predecessors, affiliates, and partners—or that are equally available to Plaintiffs through other sources. EEP will respond to Requests including “You” and “Your” on behalf of only EEP.

6. EEP objects to Instructions No. 10 as overbroad, unduly burdensome, and seeking information that is irrelevant and disproportionate to the needs of the case, including the request for the present or last known business address, occupation, title, and employer, person and work email addresses, and current occupation, title, and employer place of employment. EEP will respond as relevant pursuant to Rule 26(b) of the Federal Rules of Civil Procedure.

**RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS**

**REQUEST FOR PRODUCTION NO. 1:**

All documents referenced in your responses to Plaintiffs' Interrogatories.

## OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

EEP incorporates its General Objection and Objections to Definitions and Instructions herein.

1 Subject to and without waiving the foregoing general and specific objections,  
2 EEP will conduct a reasonable search for and produce responsive documents, if any  
3 exist.

4 **REQUEST FOR PRODUCTION NO. 2:**

5 All documents you relied upon to respond to Plaintiffs' Interrogatories.

6 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

7 EEP incorporates its General Objection and Objections to Definitions and  
8 Instructions herein. EEP objects to this Request for Production as vague, ambiguous,  
9 overbroad, and unduly burdensome. Plaintiffs fail to define "relied upon," which  
10 could include a vast array of documents that would not be proportionate to the needs  
11 of this case, and/or would be protected by the attorney work product doctrine.

12 **REQUEST FOR PRODUCTION NO. 3:**

13 All documents referenced in your Rule 26(a) initial disclosures.

14 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

15 EEP incorporates its General Objection and Objections to Definitions and  
16 Instructions herein.

17 Subject to and without waiving the foregoing general and specific objections,  
18 EEP will conduct a reasonable search for and produce responsive documents, if any  
19 exist.

20 **REQUEST FOR PRODUCTION NO. 4:**

21 Your document retention and document destruction policies in effect during the  
22 Class Period, including but not limited to your records management policy, legal hold  
23 policy, any changes to the same over time, and any documents describing, discussing  
24 or explaining such policies.

25 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

26 EEP incorporates its General Objection and Objections to Definitions and  
27 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
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1 burdensome, irrelevant to Plaintiffs' claims, and disproportionate to the needs of this  
2 case. EEP further objects to the extent this Request seeks production of documents  
3 protected by the attorney client privilege and/or attorney work product doctrine,  
4 including any litigation hold memos or similar documentation.

5 **REQUEST FOR PRODUCTION NO. 5:**

6 All non-privileged documents which concern, discuss or refer to Plaintiff  
7 Williene Jackson-Jones.

8 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

9 EEP incorporates its General Objection and Objections to Definitions and  
10 Instructions herein. EEP further objects to this Request for Production to the extent it  
11 seeks documents protected by attorney-client privilege or the work-product doctrine.

12 Subject to and without waiving the foregoing general and specific objections,  
13 EEP will conduct a reasonable search for and produce responsive documents, if any  
14 exist, that predate the filing of Plaintiffs' Complaint.

15 **REQUEST FOR PRODUCTION NO. 6:**

16 All non-privileged documents which concern, discuss or refer to Plaintiff  
17 Williene Jackson-Jones.

18 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

19 EEP incorporates its General Objection and Objections to Definitions and  
20 Instructions herein. EEP further objects to this Request for Production to the extent it  
21 seeks documents protected by attorney-client privilege or the work-product doctrine.  
22 EEP objects to this Request for Production as duplicative of Request for Production  
23 No. 5.

24 Subject to and without waiving the foregoing general and specific objections,  
25 EEP will conduct a reasonable search for and produce responsive documents, if any  
26 exist, that predate the filing of Plaintiffs' Complaint.

1 **REQUEST FOR PRODUCTION NO. 7:**

2 Any insurance policy or indemnification agreement that may be applicable to  
3 the action or to the allocation of responsibility for paying any claims in this action  
4 and any correspondence relating to coverage or indemnification or possible  
5 indemnification for your activities as alleged in the Complaint.

6 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

7 EEP incorporates its General Objection and Objections to Definitions and  
8 Instructions herein. EEP objects to this Request for Production to the extent it seeks  
9 information subject to attorney-client privilege or the work-product doctrine. EEP  
10 further objects to this Request for Production as overbroad, unduly burdensome, and  
11 irrelevant to Plaintiffs' claims in that it seeks "any correspondence relating to" the  
12 policies and agreements requested.

13 Subject to and without waiving the foregoing general and specific objections,  
14 EEP will conduct a reasonable search for and produce documents sufficient to  
15 identify any insurance policies or indemnification agreements applicable to the claims  
16 brought by Plaintiffs in this action.

17 **REQUEST FOR PRODUCTION NO. 8:**

18 Organizational charts or similar Documents sufficient to show all employees or  
19 personnel with responsibilities relating to the manufacture, labeling, marketing,  
20 advertising, distribution, or sale of the Products during the Class Period, including  
21 their departments and reporting relationships.

22 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

23 EEP incorporates its General Objection and Objections to Definitions and  
24 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
25 burdensome, and irrelevant to Plaintiffs' claims, including without limitation the  
26 request for documents pertaining to the "manufacture" and "distribution" of the  
27 Products. Further, in its motion to dismiss order, the Court interpreted the Small  
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1 Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked figures are automatically  
2 intended for children under the age of three. While EEP disagrees with this ruling, so  
3 long as it remains in effect, the documents sought through this Request are not  
4 relevant to Plaintiffs' claims and the requests are disproportionate to the needs of this  
5 case and unduly burdensome.

6 Subject to and without waiving the foregoing general and specific objections,  
7 EEP will conduct a reasonable search for and produce organizational charts, if any  
8 exist, that show employees with roles in marketing, advertising, or sale of EEP's  
9 products.

10 **REQUEST FOR PRODUCTION NO. 9:**

11 Documents sufficient to identify all third party marketing companies (including  
12 but not limited to advertising, marketing and design agencies) you have retained or  
13 consulted with regarding the marketing and/or advertising (including the packaging)  
14 for the Products.

15 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

16 EEP incorporates its General Objection and Objections to Definitions and  
17 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
18 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
19 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
20 figures are automatically intended for children under the age of three. While EEP  
21 disagrees with this ruling, so long as it remains in effect, the documents sought  
22 through this Request are not relevant to Plaintiffs' claims and the requests are  
23 disproportionate to the needs of this case and unduly burdensome.

24 **REQUEST FOR PRODUCTION NO. 10:**

25 All documents showing the names, addresses, telephone numbers and/or other  
26 contact information of any and all consumers known to you who purchased any of the  
27 Products during the Class Period.

**OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

EEP incorporates its General Objection and Objections to Definitions and Instructions herein. EEP objects to this Request for Production as seeking identities and contact information of class members prior to class certification, as such information is irrelevant to any issues prior to the class certification. EEP further objects to this Request as it seeks consumers' personal data and information without a protective order entered by the Court to ensure appropriate treatment of such confidential information.

**REQUEST FOR PRODUCTION NO. 11:**

All documents showing the names, addresses, telephone numbers and/or other contact information of any and all consumers who contacted you about the Products' safety during the Class Period.

**OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

EEP incorporates its General Objection and Objections to Definitions and Instructions herein. EEP objects to this Request for Production as overbroad, unduly burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked figures are automatically intended for children under the age of three. While EEP disagrees with this ruling, so long as it remains in effect, the documents sought through this Request are not relevant to Plaintiffs' claims and the requests are disproportionate to the needs of this case and unduly burdensome. EEP further objects to this Request for Production as seeking identities and contact information of class members prior to class certification, as such information is irrelevant to any issues prior to the class certification. EEP further objects to this Request as it seeks consumers' personal data and information without a protective order entered by the Court to ensure appropriate treatment of such confidential information.

1 Subject to and without waiving the foregoing general and specific objections,  
2 EEP will conduct a reasonable search for and produce documents reflecting  
3 communications with consumers who contacted EEP about the Products' safety  
4 related to a potential choking hazard from small parts during the Class Period, if any  
5 exist, subject to entry of an appropriate protective order and/or redaction of  
6 personally identifying consumer data, if feasible.

7 **REQUEST FOR PRODUCTION NO. 12:**

8 All documents showing the names, addresses, telephone numbers and/or other  
9 contact information of any and all consumers who contacted you about the Products'  
10 appropriateness or suitability for any age or age group (e.g. two-year olds, toddlers,  
11 etc.) during the Class Period.

12 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

13 EEP incorporates its General Objection and Objections to Definitions and  
14 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
15 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
16 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
17 figures are automatically intended for children under the age of three. While EEP  
18 disagrees with this ruling, so long as it remains in effect, the documents sought  
19 through this Request are not relevant to Plaintiffs' claims and the requests are  
20 disproportionate to the needs of this case and unduly burdensome. EEP further  
21 objects to this Request for Production as seeking identities and contact information of  
22 class members prior to class certification, as such information is irrelevant to any  
23 issues prior to the class certification. EEP further objects to this Request as it seeks  
24 consumers' personal data and information without a protective order entered by the  
25 Court to ensure appropriate treatment of such confidential information.

26 Subject to and without waiving the foregoing general and specific objections,  
27 EEP will conduct a reasonable search for and produce documents reflecting  
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1 communications with consumers who contacted EEP about the Products' age  
2 suitability during the Class Period, if any exist, subject to entry of an appropriate  
3 protective order and/or redaction of personally identifying consumer data, if feasible.

4 **REQUEST FOR PRODUCTION NO. 13 (originally identified as No. 6):**

5 Documents sufficient to identify each website, electronic data source, data  
6 repository, or any medium maintained by you or on your behalf that contains or has  
7 contained information relating to the Products or customers who have purchased the  
8 Products, including but not limited to mailing lists, digital marketing materials, and  
9 influencer outreach data.

10 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 13**

11 **(originally identified as No. 6):**

12 EEP incorporates its General Objection and Objections to Definitions and  
13 Instructions herein. EEP objects to this request because it is vague, ambiguous, and  
14 unintelligible. EEP further objects to this Request for Production as it appears  
15 overbroad, unduly burdensome, and irrelevant to Plaintiffs' claims in this action,  
16 including because it seeks discovery on discovery.

17 **REQUEST FOR PRODUCTION NO. 14:**

18 All documents sent to and received from retailers, distributors, healthcare  
19 professionals, or government regulators discussing, regarding, or referring to the  
20 suitability of the Products for children under three years.

21 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

22 EEP incorporates its General Objection and Objections to Definitions and  
23 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
24 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
25 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
26 figures are automatically intended for children under the age of three. While EEP  
27 disagrees with this ruling, so long as it remains in effect, the documents sought  
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1 through this Request are not relevant to Plaintiffs' claims and the requests are  
2 disproportionate to the needs of this case and unduly burdensome. EEP further  
3 objects to this Request on the ground that each of the Products' labels and  
4 descriptions state that the Products are not for children under 3 years of age, and as  
5 such the request is overly broad, unduly burdensome, and not proportional to the  
6 needs of the case.

7 Subject to and without waiving the foregoing general and specific objections,  
8 EEP, EEP states that it is available to meet and confer to determine whether Plaintiffs  
9 can narrow or revise the request in a reasonable and appropriate manner.

10 **REQUEST FOR PRODUCTION NO. 15:**

11 All Documents that summarize the total sales (in both units and dollars) of the  
12 Products sold in the United States during the Class Period. Please provide this  
13 information for each Product, by state, by the smallest temporal increment reflected  
14 in your records, and by monthly and annual increments.

15 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

16 EEP incorporates its General Objection and Objections to Definitions and  
17 Instructions herein. EEP objects to EEP objects to this Request for Production as  
18 overbroad, unduly burdensome, and irrelevant to Plaintiffs' claims in this action, as it  
19 seeks information regarding EEP's national sales despite Plaintiffs' claims being  
20 limited to products purchased in California.

21 Subject to and without waiving the foregoing general and specific objections,  
22 EEP refers Plaintiffs to its responses to Interrogatories 5 and 7, which will—once a  
23 stipulated protective order has been entered by the Court—provide information  
24 pertaining to the sales (in both units and dollars) of the Products sold in California  
25 during the Class Period.

1 **REQUEST FOR PRODUCTION NO. 16:**

2 All of your structured data or transaction-level data relating to the sale of the  
3 Products sold in the United States during the Class Period. Plaintiffs request this data  
4 in .txt, .csv, or similar flat file format. This Request includes: (a) the terms of each  
5 sale; (b) the invoice number; (c) the purchase order number; (d) the SKU; (e) the  
6 UPC; (f) the customer's name, phone number, address, email address; (g) the date of  
7 sale; (h) the quantity (and units) of each sale; (i) the sale price; (j) any discounts,  
8 rebates, credits, free goods, or any other pricing adjustment for each sale; (k) any  
9 fixed or variable costs or costs of good sold concerning the sale (including freight  
10 charge and transportation costs, sales and distribution costs, raw materials,  
11 intermediaries, marketing or sales costs, and any other cost attributed or allocated to  
12 the sale); (l) any structured database field summarizing terms of sale or agreements;  
13 and (m) any other data available in Your database concerning the purchase, sale, or  
14 distribution of the Products.

15 This Request also includes any dictionaries or internal style guides necessary to  
16 understand your structured data or transaction-level data.

17 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

18 EEP incorporates its General Objection and Objections to Definitions and  
19 Instructions herein. EEP objects to EEP objects to this Request for Production as  
20 overbroad, unduly burdensome, and irrelevant to Plaintiffs' claims in this action, as it  
21 seeks all manner of irrelevant information including without limitation regarding  
22 EEP's national sales despite Plaintiffs' claims being limited to products purchased in  
23 California. EEP further objects to this Request for Production as seeking identities  
24 and contact information of class members prior to class certification, as such  
25 information is irrelevant to any issues prior to the class certification. EEP further  
26 objects to this Request as it seeks consumers' personal data and information without a  
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1 protective order entered by the Court to ensure appropriate treatment of such  
2 confidential information.

3 Subject to and without waiving the foregoing general and specific objections,  
4 EEP refers Plaintiffs to its responses to Interrogatories 5 and 7, which will—once a  
5 stipulated protective order has been entered by the Court—provide information  
6 pertaining to the sales (in both units and dollars) of the Products sold in California  
7 during the Class Period.

8 **REQUEST FOR PRODUCTION NO. 17:**

9 All Documents that list identify, describe, discuss and/or summarize any sales  
10 projections, sales quotas, or deviation from expected sales for the Products during the  
11 Class Period.

12 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

13 EEP incorporates its General Objection and Objections to Definitions and  
14 Instructions herein. EEP objects to EEP objects to this Request for Production as  
15 overbroad, unduly burdensome, and seeking documents that irrelevant and not  
16 proportional to Plaintiffs' claims in this action.

17 **REQUEST FOR PRODUCTION NO. 18:**

18 Copies of each and every label and packaging flat used for the Products during  
19 the Class Period.

20 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

21 EEP incorporates its General Objection and Objections to Definitions and  
22 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
23 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
24 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
25 figures are automatically intended for children under the age of three. While EEP  
26 disagrees with this ruling, so long as it remains in effect, the documents sought  
27 through this Request are not relevant to Plaintiffs' claims and the requests are  
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1 disproportionate to the needs of this case and unduly burdensome. EEP further  
2 objects to the request for “each and every label and packaging flat used” as overbroad  
3 and unduly burdensome.

4 Subject to and without waiving the foregoing general and specific objections,  
5 EEP will conduct a reasonable search for and produce documents sufficient to show  
6 the packaging of the Products, including the text used on that packaging, during the  
7 Class Period.

8 **REQUEST FOR PRODUCTION NO. 19:**

9 Copies of all websites, including all webpages contained on those sites and  
10 drafts of webpages, and corresponding dates that those websites were accessible to  
11 the public, maintained by you or at your direction that advertised the Products during  
12 the Class Period.

13 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

14 EEP incorporates its General Objection and Objections to Definitions and  
15 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
16 burdensome, and irrelevant to Plaintiffs’ claims. In its motion to dismiss order, the  
17 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
18 figures are automatically intended for children under the age of three. While EEP  
19 disagrees with this ruling, so long as it remains in effect, the documents sought  
20 through this Request are not relevant to Plaintiffs’ claims and the requests are  
21 disproportionate to the needs of this case and unduly burdensome. EEP further  
22 objects to the Request as it seeks “drafts” of webpages, which are irrelevant and not  
23 proportional to the claims in the case. EEP further objects to the extent the Request  
24 asks EEP to identify dates associated with documents produced in response to this  
25 Request, as such a request would be beyond the requirements of Rule 34 of the  
26 Federal Rules of Civil Procedure.



1 Subject to and without waiving the foregoing general and specific objections,  
2 while EEP will not collect or produce copies of webpages currently available  
3 online—as those are equally available to Plaintiffs—EEP will make reasonable  
4 efforts to search for and produce copies of webpages containing descriptions of the  
5 Products that are no longer available on websites maintained by EEP or its agents  
6 during the Class Period, if feasible.

7 **REQUEST FOR PRODUCTION NO. 20:**

8 Copies of all Advertisements for the Products during the Class Period.

9 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

10 EEP incorporates its General Objection and Objections to Definitions and  
11 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
12 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
13 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
14 figures are automatically intended for children under the age of three. While EEP  
15 disagrees with this ruling, so long as it remains in effect, the documents sought  
16 through this Request are not relevant to Plaintiffs' claims and the requests are  
17 disproportionate to the needs of this case and unduly burdensome. EEP further  
18 objects that the term "Advertisements" is undefined, vague, and ambiguous.

19 Subject to and without waiving the foregoing general and specific objections,  
20 EEP will conduct a reasonable search for and produce documents sufficient to show  
21 EEP's print, web, and television advertising during the Class Period.

22 **REQUEST FOR PRODUCTION NO. 21(a):**

23 All marketing research, studies, surveys, reports or other documents used by  
24 you in the marketing and advertising of the Products. This includes but is not limited  
25 to such documents discussing, summarizing, describing or otherwise sufficient to  
26 show the characteristics of consumers in the market to purchase the Products  
27 generally and specifically the (a) purchasing habits of said consumers, (b) how the  
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1 product placement and/or effects of product placement on your consumers impacts  
2 their buying habits and perceptions, (c) the images and language on the packaging  
3 and their impacts on buying habits and perceptions, and (d) the effectiveness of the  
4 Products' packaging.

5 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 21(a):**

6 EEP incorporates its General Objection and Objections to Definitions and  
7 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
8 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
9 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
10 figures are automatically intended for children under the age of three. While EEP  
11 disagrees with this ruling, so long as it remains in effect, the documents sought  
12 through this Request are not relevant to Plaintiffs' claims and the requests are  
13 disproportionate to the needs of this case and unduly burdensome. EEP further  
14 objects to the phrase "other documents" as overbroad, vague, and ambiguous.

15 **REQUEST FOR PRODUCTION NO. 21(b):**

16 All Documents constituting, summarizing or referring to any marketing  
17 research, studies, surveys, reports, legal requirements, or other materials used or  
18 considered by you in deciding to sell the Products.

19 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 21(b):**

20 EEP incorporates its General Objection and Objections to Definitions and  
21 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
22 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
23 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
24 figures are automatically intended for children under the age of three. While EEP  
25 disagrees with this ruling, so long as it remains in effect, the documents sought  
26 through this Request are not relevant to Plaintiffs' claims and the requests are  
27 disproportionate to the needs of this case and unduly burdensome. EEP further  
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objects to the phrases “legal requirements,” “other materials,” and “deciding to sell” as vague, ambiguous and overbroad.

**REQUEST FOR PRODUCTION NO. 22:**

Documents sufficient to identify and describe your target market for the Products, including but not limited to demographics, education, income level and your strategy to get these consumers to buy the Products .

**OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

EEP incorporates its General Objection and Objections to Definitions and Instructions herein. EEP objects to this Request for Production as overbroad, unduly burdensome, and irrelevant to Plaintiffs’ claims. In its motion to dismiss order, the Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked figures are automatically intended for children under the age of three. While EEP disagrees with this ruling, so long as it remains in effect, the documents sought through this Request are not relevant to Plaintiffs’ claims and the requests are disproportionate to the needs of this case and unduly burdensome.

**REQUEST FOR PRODUCTION NO. 23(a):**

All Documents constituting, summarizing or referring to any research, studies, investigation, surveys or other Documents indicating that consumers were aware or were not aware that the Products are not safe for children under 3 years of age.

**OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 23(a):**

EEP incorporates its General Objection and Objections to Definitions and Instructions herein. EEP objects to this Request for Production as overbroad, unduly burdensome, and irrelevant to Plaintiffs’ claims. In its motion to dismiss order, the Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked figures are automatically intended for children under the age of three. While EEP disagrees with this ruling, so long as it remains in effect, the documents sought through this Request are not relevant to Plaintiffs’ claims and the requests are

1 disproportionate to the needs of this case and unduly burdensome. EEP further  
2 objects to this Request on the ground that each of the Products' labels and  
3 descriptions state that the Products are not for children under 3 years of age, and as  
4 such the request is overly broad, unduly burdensome, and not proportional to the  
5 needs of the case. EEP further objects to the phrase "or other Documents" as  
6 overbroad and unduly burdensome.

7 **REQUEST FOR PRODUCTION NO. 23(b):**

8 All Documents constituting, summarizing or referring to any research, studies,  
9 investigation, surveys or other Documents indicating that consumers were aware or  
10 were not aware that the Products may pose a choking risk.

11 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 23(b):**

12 EEP incorporates its General Objection and Objections to Definitions and  
13 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
14 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
15 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
16 figures are automatically intended for children under the age of three. While EEP  
17 disagrees with this ruling, so long as it remains in effect, the documents sought  
18 through this Request are not relevant to Plaintiffs' claims and the requests are  
19 disproportionate to the needs of this case and unduly burdensome. EEP further  
20 objects to this Request on the ground that each of the Products' labels and  
21 descriptions state that the Products are not for children under 3 years of age, and as  
22 such the request is overly broad, unduly burdensome, and not proportional to the  
23 needs of the case. EEP further objects to the phrase "or other Documents" as  
24 overbroad and unduly burdensome.

25 **REQUEST FOR PRODUCTION NO. 24:**

26 All documents that identify, describe, or discuss the fact that the Products may  
27 pose a choking risk.

**OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

EEP incorporates its General Objection and Objections to Definitions and Instructions herein. EEP objects to this Request for Production as overbroad, unduly burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked figures are automatically intended for children under the age of three. While EEP disagrees with this ruling, so long as it remains in effect, the documents sought through this Request are not relevant to Plaintiffs' claims and the requests are disproportionate to the needs of this case and unduly burdensome. EEP further objects to this Request on the ground that each of the Products' labels and descriptions state that the Products poses a choking hazard, and as such the request is overly broad, unduly burdensome, and not proportional to the needs of the case.

Subject to and without waiving the foregoing general and specific objections, EEP, EEP states that it is available to meet and confer to determine whether Plaintiffs can narrow or revise the request in a reasonable and appropriate manner.

**REQUEST FOR PRODUCTION NO. 25:**

All documents that identify, describe, or discuss the fact that the Products are not safe for children under 3 years of age.

**OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

EEP incorporates its General Objection and Objections to Definitions and Instructions herein. EEP objects to this Request for Production as overbroad, unduly burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked figures are automatically intended for children under the age of three. While EEP disagrees with this ruling, so long as it remains in effect, the documents sought through this Request are not relevant to Plaintiffs' claims and the requests are disproportionate to the needs of this case and unduly burdensome. EEP further

1 objects to this Request on the ground that each of the Products' labels and  
2 descriptions state that the Products are not for children under 3 years of age, and as  
3 such the request is overly broad, unduly burdensome, and not proportional to the  
4 needs of the case.

5 Subject to and without waiving the foregoing general and specific objections,  
6 EEP, EEP states that it is available to meet and confer to determine whether Plaintiffs  
7 can narrow or revise the request in a reasonable and appropriate manner.

8 **REQUEST FOR PRODUCTION NO. 26:**

9 All Documents constituting, summarizing or referring to any research, studies,  
10 investigation, surveys or other documents indicating whether consumers purchased  
11 the Products for children under three years of age.

12 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

13 EEP incorporates its General Objection and Objections to Definitions and  
14 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
15 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
16 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
17 figures are automatically intended for children under the age of three. While EEP  
18 disagrees with this ruling, so long as it remains in effect, the documents sought  
19 through this Request are not relevant to Plaintiffs' claims and the requests are  
20 disproportionate to the needs of this case and unduly burdensome. EEP further  
21 objects to this Request on the ground that each of the Products' labels and  
22 descriptions state that the Products are not for children under 3 years of age, and as  
23 such the request is overly broad, unduly burdensome, and not proportional to the  
24 needs of the case. EEP further objects to the phrase "or other Documents" as  
25 overbroad and unduly burdensome.

1 **REQUEST FOR PRODUCTION NO. 27:**

2 All Documents constituting, summarizing or referring to any research, studies,  
3 investigation, surveys or other documents indicating whether consumers used the  
4 Products for children under three years of age.

5 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

6 EEP incorporates its General Objection and Objections to Definitions and  
7 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
8 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
9 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
10 figures are automatically intended for children under the age of three. While EEP  
11 disagrees with this ruling, so long as it remains in effect, the documents sought  
12 through this Request are not relevant to Plaintiffs' claims and the requests are  
13 disproportionate to the needs of this case and unduly burdensome. EEP further  
14 objects to this Request on the ground that each of the Products' labels and  
15 descriptions state that the Products are not for children under 3 years of age, and as  
16 such the request is overly broad, unduly burdensome, and not proportional to the  
17 needs of the case. EEP further objects to the phrase "or other Documents" as  
18 overbroad and unduly burdensome.

19 **REQUEST FOR PRODUCTION NO. 28:**

20 All Documents (including but not limited to creative briefs, requests for  
21 proposals, presentations, drafts, mockups, campaign strategies and kickoffs) that  
22 describe, discuss or relate to or involve the design and/or content of the current and  
23 prior packaging of the Products, including but not limited to (a) communication and  
24 campaign strategies and plans; (b) marketing strategies; (c) decisions regarding the  
25 placement of specific statements and images on the packaging, and, (d) alternative  
26 images and language considered and rejected.



**OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

EEP incorporates its General Objection and Objections to Definitions and Instructions herein. EEP objects to this Request for Production as overbroad, unduly burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked figures are automatically intended for children under the age of three. While EEP disagrees with this ruling, so long as it remains in effect, the documents sought through this Request are not relevant to Plaintiffs' claims and the requests are disproportionate to the needs of this case and unduly burdensome. EEP also objects to this request as generally overbroad and seeking information irrelevant and not proportional to the claims in this Case, including because it seeks documents reflecting "images and language considered and rejected."

Subject to and without waiving the foregoing general and specific objections, EEP will conduct a reasonable search for and produce documents sufficient to show the packaging of the Products, including the text used on that packaging, during the Class Period.

**REQUEST FOR PRODUCTION NO. 29:**

All Documents which describe, evidence, memorialize, summarize or discuss all decisions about how to sell, market or advertise the Products.

**OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

EEP incorporates its General Objection and Objections to Definitions and Instructions herein. EEP objects to this Request for Production as overbroad, unduly burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked figures are automatically intended for children under the age of three. While EEP disagrees with this ruling, so long as it remains in effect, the documents sought



1 through this Request are not relevant to Plaintiffs' claims and the requests are  
2 disproportionate to the needs of this case and unduly burdensome.

3 **REQUEST FOR PRODUCTION NO. 30:**

4 All Documents which describe, evidence, memorialize, summarize or discuss  
5 the process for determining the content and design of the Products' packaging,  
6 including but not limited to the specific language and/or images to be included and  
7 where it should be located on the packaging.

8 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

9 EEP incorporates its General Objection and Objections to Definitions and  
10 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
11 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
12 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
13 figures are automatically intended for children under the age of three. While EEP  
14 disagrees with this ruling, so long as it remains in effect, the documents sought  
15 through this Request are not relevant to Plaintiffs' claims and the requests are  
16 disproportionate to the needs of this case and unduly burdensome. EEP also objects  
17 to this request as generally overbroad and seeking information irrelevant and not  
18 proportional to the claims in this Case, including because it seeks documents  
19 reflecting "images and language considered and rejected."

20 Subject to and without waiving the foregoing general and specific objections,  
21 EEP will conduct a reasonable search for and produce documents sufficient to show  
22 the packaging of the Products, including the text used on that packaging, during the  
23 Class Period

24 **REQUEST FOR PRODUCTION NO. 31:**

25 All documents constituting, summarizing or discussing data or information  
26 provided by measurement and data analytics companies and consultants (including  
27  
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1 but not limited Nielsen and IRI) sufficient to show the sales and pricing of the  
2 Products during the Class Period.

3 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 31:**

4 EEP incorporates its General Objection and Objections to Definitions and  
5 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
6 burdensome, and irrelevant to Plaintiffs' claims in this action, as it seeks information  
7 regarding EEP's national sales despite Plaintiffs' claims being limited to products  
8 purchased in California. EEP further objects to this request as duplicative and  
9 unnecessary in light of the information EEP will supply—once a stipulated protective  
10 order has been entered by the Court—in response to Interrogatories 5 and 7.

11 **REQUEST FOR PRODUCTION NO. 32:**

12 All documents that describe, discuss or relate to the placement of the Products  
13 in stores and on your website (including within specific categories, sections and on  
14 store shelves).

15 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 32:**

16 EEP incorporates its General Objection and Objections to Definitions and  
17 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
18 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
19 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
20 figures are automatically intended for children under the age of three. While EEP  
21 disagrees with this ruling, so long as it remains in effect, the documents sought  
22 through this Request are not relevant to Plaintiffs' claims and the requests are  
23 disproportionate to the needs of this case and unduly burdensome. EEP further  
24 objects to the request for documents related to placement of products "on your  
25 website" as overbroad and unduly burdensome, as that could encompass nearly every  
26 document pertaining to the website.

1 **REQUEST FOR PRODUCTION NO. 33:**

2 All telephone and online scripts provided to any customer service  
3 representative or other employees responsible for communicating with consumers  
4 regarding the Products, including those which specifically discuss the Products  
5 safety, age suitability/ appropriateness, or choking risks.

6 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 33:**

7 EEP incorporates its General Objection and Objections to Definitions and  
8 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
9 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
10 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
11 figures are automatically intended for children under the age of three. While EEP  
12 disagrees with this ruling, so long as it remains in effect, the documents sought  
13 through this Request are not relevant to Plaintiffs' claims and the requests are  
14 disproportionate to the needs of this case and unduly burdensome.

15 Subject to and without waiving the foregoing general and specific objections,  
16 EEP will conduct a reasonable search for and produce any responsive documents, if  
17 any exist.

18 **REQUEST FOR PRODUCTION NO. 34:**

19 All documents that identify, describe, discuss, relate to, summarize or involve  
20 your procedure for handling consumer inquiries, complaints or communications  
21 regarding the Products.

22 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 34:**

23 EEP incorporates its General Objection and Objections to Definitions and  
24 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
25 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
26 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
27 figures are automatically intended for children under the age of three. While EEP  
28

1 disagrees with this ruling, so long as it remains in effect, the documents sought  
2 through this Request are not relevant to Plaintiffs' claims and the requests are  
3 disproportionate to the needs of this case and unduly burdensome. EEP further  
4 objects that the requested documents are generally irrelevant and not proportional to  
5 the needs of the case.

6 **REQUEST FOR PRODUCTION NO. 35:**

7 All documents that identify, describe, discuss, relate to, summarize or involve  
8 any complaint, concern, or question by a consumer regarding the Products (including  
9 logs, intake forms, communications).

10 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 35:**

11 EEP incorporates its General Objection and Objections to Definitions and  
12 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
13 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
14 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
15 figures are automatically intended for children under the age of three. While EEP  
16 disagrees with this ruling, so long as it remains in effect, the documents sought  
17 through this Request are not relevant to Plaintiffs' claims and the requests are  
18 disproportionate to the needs of this case and unduly burdensome. EEP further  
19 objects to this Request for Production as seeking identities and contact information of  
20 class members prior to class certification, as such information is irrelevant to any  
21 issues prior to the class certification. EEP further objects to this Request as it seeks  
22 consumers' personal data and information without a protective order entered by the  
23 Court to ensure appropriate treatment of such confidential information.

24 Subject to and without waiving the foregoing general and specific objections,  
25 EEP will conduct a reasonable search for and produce documents reflecting  
26 communications with consumers that contacted EEP about the Products' safety or age  
27  
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1 suitability during the Class Period, if any exist, subject to entry of an appropriate  
2 protective order and/or redaction of personally identifying consumer data, if feasible.

3 **REQUEST FOR PRODUCTION NO. 36:**

4 All communications between you and any third party, including consumers and  
5 vendors, regarding the packaging, marketing and/or advertising for the Products.

6 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 36:**

7 EEP incorporates its General Objection and Objections to Definitions and  
8 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
9 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
10 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
11 figures are automatically intended for children under the age of three. While EEP  
12 disagrees with this ruling, so long as it remains in effect, the documents sought  
13 through this Request are not relevant to Plaintiffs' claims and the requests are  
14 disproportionate to the needs of this case and unduly burdensome.

15 Subject to and without waiving the foregoing general and specific objections,  
16 EEP will conduct a reasonable search for and produce documents reflecting  
17 communications with consumers who contacted EEP about the Products' packaging,  
18 marketing, and/or advertising, if any exist, subject to entry of an appropriate  
19 protective order and/or redaction of personally identifying consumer data, if feasible.

20 **REQUEST FOR PRODUCTION NO. 37:**

21 Documents sufficient to show your document preservation policy.

22 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 37:**

23 EEP incorporates its General Objection and Objections to Definitions and  
24 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
25 burdensome, irrelevant to Plaintiffs' claims, and disproportionate to the needs of this  
26 case. EEP further objects to the extent this Request seeks production of documents  
27 protected by the attorney client privilege and/or attorney work product doctrine,  
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1 including any litigation hold memos or similar documentation. EEP further objects  
2 that this Request is duplicative of Request #4.

3 **REQUEST FOR PRODUCTION NO. 39:**

4 All Documents and communications constituting, showing, or discussing any  
5 communications between you on the one hand and any state or local government or  
6 regulatory entity, federal agency, consumer group, or consumer protection entity, on  
7 the other hand, discussing the pricing, packaging, advertising or marketing of the  
8 Products, including but not limited to any consumer complaints on the pricing,  
9 packaging, advertising or marketing of the Products received by any such agencies or  
10 entities.

11 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 39:**

12 EEP incorporates its General Objection and Objections to Definitions and  
13 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
14 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
15 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
16 figures are automatically intended for children under the age of three. While EEP  
17 disagrees with this ruling, so long as it remains in effect, the documents sought  
18 through this Request are not relevant to Plaintiffs' claims and the requests are  
19 disproportionate to the needs of this case and unduly burdensome.

20 **REQUEST FOR PRODUCTION NO. 40:**

21 All Documents constituting any and all segmentation surveys during the Class  
22 Period that are related to the Products.

23 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 40:**

24 EEP incorporates its General Objection and Objections to Definitions and  
25 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
26 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
27 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
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1 figures are automatically intended for children under the age of three. While EEP  
2 disagrees with this ruling, so long as it remains in effect, the documents sought  
3 through this Request are not relevant to Plaintiffs' claims and the requests are  
4 disproportionate to the needs of this case and unduly burdensome. EEP further  
5 objects on the ground that the term "segmentation surveys" is undefined and vague  
6 and ambiguous.

7 **REQUEST FOR PRODUCTION NO. 41:**

8 Documents sufficient to identify the Products' competitors, including their and  
9 your market share, for the sale of the Products.

10 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 41:**

11 EEP incorporates its General Objection and Objections to Definitions and  
12 Instructions herein. EEP objects to this Request as overbroad, unduly burdensome,  
13 irrelevant, and not proportional to Plaintiffs' claims in this action, as Plaintiffs'  
14 allegations do not relate in any way to EEP's competitors, their market shares, or  
15 EEP's market shares. Further, in its motion to dismiss order, the Court interpreted  
16 the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked figures are  
17 automatically intended for children under the age of three. While EEP disagrees with  
18 this ruling, so long as it remains in effect, the documents sought through this Request  
19 are not relevant to Plaintiffs' claims and the requests are disproportionate to the needs  
20 of this case and unduly burdensome.

21 **REQUEST FOR PRODUCTION NO. 42:**

22 All Documents Defendant submitted to the United States Consumer Product  
23 Safety Commission (CPSC) in response to any and all CPSC investigations of the  
24 Products.

25 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 42:**

26 EEP incorporates its General Objection and Objections to Definitions and  
27 Instructions herein. EEP further objects to the term "CPSC investigations" as  
28



1 undefined, vague, and ambiguous. EEP also objects to this Request for Production as  
2 overbroad, unduly burdensome, and irrelevant to Plaintiffs' claims. In its motion to  
3 dismiss order, the Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to  
4 mean that all flocked figures are automatically intended for children under the age of  
5 three. While EEP disagrees with this ruling, so long as it remains in effect, the  
6 documents sought through this Request are not relevant to Plaintiffs' claims and the  
7 requests are disproportionate to the needs of this case and unduly burdensome.

8 Subject to and without waiving the foregoing general and specific objections,  
9 EEP will produce documents sufficient to show EEP's regulatory reports to CPSC  
10 concerning incidents associated with the Products.

11 **REQUEST FOR PRODUCTION NO. 43:**

12 All Documents Defendant submitted to the United States Consumer Product  
13 Safety Commission (CPSC) in response to CPSC's recall of the Products.

14 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 43:**

15 EEP incorporates its General Objection and Objections to Definitions and  
16 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
17 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
18 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
19 figures are automatically intended for children under the age of three. While EEP  
20 disagrees with this ruling, so long as it remains in effect, the documents sought  
21 through this Request are not relevant to Plaintiffs' claims and the requests are  
22 disproportionate to the needs of this case and unduly burdensome.

23 Subject to and without waiving the foregoing general and specific objections,  
24 EEP will produce documents sufficient to show CPSC's approval of the terms of the  
25 recall associated with certain of the Products.



1 **REQUEST FOR PRODUCTION NO. 44:**

2 All communications and correspondence between Defendant and the United  
3 States Consumer Product Safety Commission (CPSC) related to the CPSC's  
4 investigations of the Products.

5 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 44:**

6 EEP incorporates its General Objection and Objections to Definitions and  
7 Instructions herein. EEP further objects to the term "CPSC investigations" as  
8 undefined, vague, and ambiguous. EEP also objects to this Request for Production as  
9 overbroad, unduly burdensome, and irrelevant to Plaintiffs' claims. In its motion to  
10 dismiss order, the Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to  
11 mean that all flocked figures are automatically intended for children under the age of  
12 three. While EEP disagrees with this ruling, so long as it remains in effect, the  
13 documents sought through this Request are not relevant to Plaintiffs' claims and the  
14 requests are disproportionate to the needs of this case and unduly burdensome.

15 Subject to and without waiving the foregoing general and specific objections,  
16 EEP will produce documents sufficient to show EEP's regulatory reports to CPSC  
17 concerning incidents associated with the Products and the results of CPSC's  
18 investigations related to the Products.

19 **REQUEST FOR PRODUCTION NO. 45(a):**

20 All communications and correspondence between Defendant and the United  
21 States Consumer Product Safety Commission (CPSC) related to the CPSC's recall of  
22 the Products.

23 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 45(a):**

24 EEP incorporates its General Objection and Objections to Definitions and  
25 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
26 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
27 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
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1 figures are automatically intended for children under the age of three. While EEP  
2 disagrees with this ruling, so long as it remains in effect, the documents sought  
3 through this Request are not relevant to Plaintiffs' claims and the requests are  
4 disproportionate to the needs of this case and unduly burdensome.

5 Subject to and without waiving the foregoing general and specific objections,  
6 EEP will produce documents sufficient to show CPSC's approval of the terms of the  
7 recall associated with certain of the Products.

8 **REQUEST FOR PRODUCTION NO. 45(b):**

9 Documents sufficient to show the number of consumers who received a free  
10 replacement accessory as a result of the March 2023 recall of the Products.

11 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 45(b):**

12 EEP incorporates its General Objection and Objections to Definitions and  
13 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
14 burdensome, and irrelevant to Plaintiffs' claims. EEP further objects to the extent the  
15 Request seeks documents and information for Products sold outside of California.

16 Subject to and without waiving the foregoing general and specific objections,  
17 EEP will conduct a reasonable search for and produce documents sufficient to  
18 identify the number of consumers in California who received a free replacement  
19 accessory as a result of the March 2023 recall of the Products, if any exist.

20 **REQUEST FOR PRODUCTION NO. 46:**

21 All communications and correspondence between Defendant and any and all  
22 retailers regarding the recall of the Products.

23 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 46:**

24 EEP incorporates its General Objection and Objections to Definitions and  
25 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
26 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
27 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
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1 figures are automatically intended for children under the age of three. While EEP  
2 disagrees with this ruling, so long as it remains in effect, the documents sought  
3 through this Request are not relevant to Plaintiffs' claims and the requests are  
4 disproportionate to the needs of this case and unduly burdensome.

5 Subject to and without waiving the foregoing general and specific objections,  
6 EEP will conduct a reasonable search for and produce documents sufficient to show  
7 EEP's communications to retailers regarding the recall, if any exist.

8 **REQUEST FOR PRODUCTION NO. 47:**

9 All communications and correspondence between Defendant and any and all  
10 retailers regarding the CPSC's investigation of the Products.

11 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 47:**

12 EEP incorporates its General Objection and Objections to Definitions and  
13 Instructions herein. EEP further objects to the term "CPSC investigations" as  
14 undefined, vague, and ambiguous. EEP also objects to this Request for Production as  
15 overbroad, unduly burdensome, and irrelevant to Plaintiffs' claims. In its motion to  
16 dismiss order, the Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to  
17 mean that all flocked figures are automatically intended for children under the age of  
18 three. While EEP disagrees with this ruling, so long as it remains in effect, the  
19 documents sought through this Request are not relevant to Plaintiffs' claims and the  
20 requests are disproportionate to the needs of this case and unduly burdensome.

21 Subject to and without waiving the foregoing general and specific objections,  
22 EEP will conduct a reasonable search for and produce documents sufficient to show  
23 EEP's communications to retailers regarding the recall, if any exist.

24 **REQUEST FOR PRODUCTION NO. 48:**

25 All communications and correspondence between Defendant and any and all  
26 purchasers of the Products regarding the recall of the Products.

**OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 48:**

EEP incorporates its General Objection and Objections to Definitions and Instructions herein. EEP objects to this Request for Production as overbroad, unduly burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked figures are automatically intended for children under the age of three. While EEP disagrees with this ruling, so long as it remains in effect, the documents sought through this Request are not relevant to Plaintiffs' claims and the requests are disproportionate to the needs of this case and unduly burdensome. EEP further objects to this Request for Production to the extent it seeks production of the identities and contact information of class members prior to class certification, as such information is irrelevant to any issues prior to the class certification. EEP further objects to this Request as it seeks consumers' personal data and information without a protective order entered by the Court to ensure appropriate treatment of such confidential information.

Subject to and without waiving the foregoing general and specific objections, EEP will conduct a reasonable search for and produce documents reflecting communications with consumers about the recall of certain Products during the Class Period, if any exist, subject to entry of an appropriate protective order and/or redaction of personally identifying consumer data, if feasible.

**REQUEST FOR PRODUCTION NO. 49:**

All communications and correspondence between Defendant and any and all users or caretakers of users of the Products regarding the recall of the Products.

**OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 49:**

EEP incorporates its General Objection and Objections to Definitions and Instructions herein. EEP objects to this Request for Production as overbroad, unduly burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the

1 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
2 figures are automatically intended for children under the age of three. While EEP  
3 disagrees with this ruling, so long as it remains in effect, the documents sought  
4 through this Request are not relevant to Plaintiffs' claims and the requests are  
5 disproportionate to the needs of this case and unduly burdensome. EEP further  
6 objects to this Request for Production to the extent it seeks production of the  
7 identities and contact information of class members prior to class certification, as  
8 such information is irrelevant to any issues prior to the class certification. EEP  
9 further objects to this Request as it seeks consumers' personal data and information  
10 without a protective order entered by the Court to ensure appropriate treatment of  
11 such confidential information.

12 Subject to and without waiving the foregoing general and specific objections,  
13 EEP will conduct a reasonable search for and produce documents reflecting  
14 communications with consumers about the recall of certain Products during the Class  
15 Period, if any exist, subject to entry of an appropriate protective order and/or  
16 redaction of personally identifying consumer data, if feasible.

17 **REQUEST FOR PRODUCTION NO. 50:**

18 All communications and correspondence between Defendant and any and all  
19 consumers regarding the recall of the Products.

20 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 50:**

21 EEP incorporates its General Objection and Objections to Definitions and  
22 Instructions herein. EEP objects to this Request for Production as overbroad, unduly  
23 burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss order, the  
24 Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all flocked  
25 figures are automatically intended for children under the age of three. While EEP  
26 disagrees with this ruling, so long as it remains in effect, the documents sought  
27 through this Request are not relevant to Plaintiffs' claims and the requests are  
28

1 disproportionate to the needs of this case and unduly burdensome. EEP further  
2 objects to this Request for Production to the extent it seeks production of the  
3 identities and contact information of class members prior to class certification, as  
4 such information is irrelevant to any issues prior to the class certification. EEP  
5 further objects to this Request as it seeks consumers' personal data and information  
6 without a protective order entered by the Court to ensure appropriate treatment of  
7 such confidential information.

8 Subject to and without waiving the foregoing general and specific objections,  
9 EEP will conduct a reasonable search for and produce documents reflecting  
10 communications with consumers about the recall of certain Products during the Class  
11 Period, if any exist, subject to entry of an appropriate protective order and/or  
12 redaction of personally identifying consumer data, if feasible.

13 **REQUEST FOR PRODUCTION NO. 51:**

14 All documents referencing and/or summarizing any and all communications  
15 and/or correspondence (including but not limited to, logs, customer service tools,  
16 reports, diaries, emails) between Defendant and any and all third parties regarding the  
17 recall of the Products.

18 **OBJECTIONS/RESPONSE TO REQUEST FOR PRODUCTION NO. 51:**

19 EEP incorporates its General Objection and Objections to Definitions and  
20 Instructions herein. EEP further objects to this Request as duplicative of Request  
21 Nos. 48, 49, and 50. EEP further objects to this Request for Production as overbroad,  
22 unduly burdensome, and irrelevant to Plaintiffs' claims. In its motion to dismiss  
23 order, the Court interpreted the Small Parts Rule (16 C.F.R. § 1501.2) to mean that all  
24 flocked figures are automatically intended for children under the age of three. While  
25 EEP disagrees with this ruling, so long as it remains in effect, the documents sought  
26 through this Request are not relevant to Plaintiffs' claims and the requests are  
27 disproportionate to the needs of this case and unduly burdensome. EEP further  
28

1 objects to this Request for Production to the extent it seeks production of the  
2 identities and contact information of class members prior to class certification, as  
3 such information is irrelevant to any issues prior to the class certification. EEP  
4 further objects to this Request as it seeks consumers' personal data and information  
5 without a protective order entered by the Court to ensure appropriate treatment of  
6 such confidential information.

7 Subject to and without waiving the foregoing general and specific objections,  
8 EEP will conduct a reasonable search for and produce (1) documents sufficient to  
9 show EEP's communications with retailers and consumers about the recall of certain  
10 Products during the Class Period, if any exist; and (2) call logs reflecting calls from  
11 consumers concerning the recall, if any exist – all subject to entry of an appropriate  
12 protective order and/or redaction of personally identifying consumer data, if feasible.

13 Dated: January 19, 2024

ARNOLD & PORTER KAYE SCHOLER LLP

15 By: /s/ James F. Speyer

16 James F. Speyer

17 Ian S. Hoffman

18 Attorneys for Defendants  
19 EPOCH EVERLASTING PLAY, LLC and  
20 TARGET CORPORATION  
21  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 19th day of January, 2024, I served the foregoing document via e-mail, per agreement of the parties, on the following:

**MILSTEIN JACKSON**

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Dated: January 19, 2024

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By: /s/ Ian S. Hoffman

Ian S. Hoffman

Attorney for Defendants

EPOCH EVERLASTING PLAY, LLC and  
TARGET CORPORATION